

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

HARVEY LEE SMITH

PETITIONER

v.

No. 4:03CV285-M-B

WARDEN CLAUDE FOREMAN, ET AL.

RESPONDENTS

**ORDER DENYING PETITIONER'S MOTION
FOR RELIEF FROM JUDGMENT OR ORDER**

This matter comes before the court on the petitioner's February 4, 2005, motion for reconsideration of the court's March 1, 2004, order dismissing the instant case as untimely filed. The court has already denied four similar motions filed May 3, 2004, June 16, 2004, July 21, 2004, and August 17, 2004. Nevertheless, the court interprets the instant motion, using the liberal standard for *pro se* litigants set forth in *Haines v. Kerner*, 404 U.S. 519 (1972), as a motion for relief from a judgment or order under FED. R. CIV. P. 60. An order granting relief under Rule 60 must be based upon: (1) clerical mistakes, (2) mistake, inadvertence, surprise, or excusable neglect, (3) newly discovered evidence, (4) fraud or other misconduct of an adverse party, (5) a void judgment, or (6) any other reason justifying relief from the operation of the order. The court finds the petitioner has neither asserted nor proven any of the specific justifications for relief from an order permitted under Rule 60; the court finds further that the petitioner has not presented "any other reason justifying relief from the operation" of the judgment. As such, the petitioner's *fifth* request for reconsideration is hereby **DENIED**, and this case is **CLOSED**.

Should the petitioner file any other motions or pleadings in this case, other than those required to initiate an appeal, the Clerk of the Court is hereby directed to place such papers in the file, where they shall neither be acknowledged nor addressed.

SO ORDERED, this the 13th day of September, 2005.

/s/ Michael P. Mills
UNITED STATES DISTRICT JUDGE